

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

v.

JOSEPH MCADAMS

*Defendant.*

Criminal No. 09-00737 (NLH)

**OPINION**

**APPEARANCES:**

Joseph McAdams  
05831-050  
Fort Dix Federal Correctional Institution  
P.O. BOX 2000  
Joint Base MDL, NJ 08640

*Defendant appearing pro se*

Sophie Elizabeth Reiter  
Office of the U.S. Attorney, District of New Jersey  
970 Broad St.  
Newark, NJ 07102

*On behalf of the United States of America*

**HILLMAN, District Judge**

This matter comes before the Court upon Defendant Joseph McAdams's Motion for Compassionate Release Pursuant to 18 U.S.C. § 3582(c)(1). (ECF No. 41.)<sup>1</sup> Defendant is currently an inmate at Federal Correctional Institution ("FCI") Fort Dix, serving a sentence imposed upon him after entry of a guilty plea in 2009.

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<sup>1</sup> References to "ECF" without additional reference to the case number are references to Crim No. 09-00737.

Defendant currently seeks early release based upon his claims that he is not receiving appropriate medical care in prison and he was erroneously classified as a Career Offender. (ECF No. 41 at 4, 8.)<sup>2</sup>

For the reasons stated below, Defendant's motion will be denied.

#### **BACKGROUND**

On September 25, 2009, Defendant Joseph McAdams waived his right to indictment and pleaded guilty to an eleven-Count Information charging ten counts of Armed Bank Robbery, 18 U.S.C. § 2113(a), (d) and 2, and one count of Using a Firearm During and in Relation to a Crime of Violence, 18 U.S.C. § 924(c)(1)(A)(ii). (ECF Nos. 13, 14, 16.) These charges stemmed from conduct occurring December 2001 through October 2008, during which time Defendant robbed ten different banks throughout New Jersey and Pennsylvania. (ECF Nos. 12, 14, 16; PSR ¶ 1.) When robbing Investors Savings Bank in Whitehouse Station, New Jersey on October 9, 2008, Defendant knowingly carried and used a

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<sup>2</sup> Defendant also makes passing reference to a claim of medical document alteration in a footnote, with no further discussion or basis for his claim, other than an article he attaches to his motion. (ECF No. 41 at 7; 41-9 at 1.) Because Defendant provides no factual basis that would inform this Court as to the manner in which he believes his medical records have been altered or how, if such an alteration occurred, it supports his claim for compassionate release, the court is unable to consider the issue.

firearm. (ECF Nos. 12, 14, 1; PSR ¶¶ 1-2.)

On April 15, 2010, Defendant was sentenced to a term of 235 months' imprisonment on each of Counts 1 through 10, to be served concurrently, and a term of 84 months on Count 11, to be served consecutively to the terms imposed on Counts 1 thru 10 (to the extent necessary to produce a total term of 319 months), Supervised Release for a term of 5 years, Restitution in the amount of \$804,084.00, and a Special Assessment of \$ 1,100.00. (ECF No. 19.)

On March 19, 2013, Defendant filed a Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C. § 2255 in which he claimed Ineffective Assistance of Counsel based on a new rule of law. (13-cv-01612, ECF No. 1.) On November 19, 2013, the court granted Defendant leave to amend and on September 25, 2014, held an evidentiary hearing. (13-cv-01612, ECF Nos. 12, 31.) Defendant's Amended Motion was denied on April 27, 2015. (13-cv-01612, ECF No. 33.)

On May 26, 2015, Defendant filed a Motion to Alter or Amend Judgment Pursuant to Fed.R.Civ.P. 59(e)<sup>3</sup> (13-cv-01612, ECF No. 35) based upon his contention that his "1979 conviction should not be counted in his criminal history under §4A1.2(e)(1) because it is outside the 15 year time period." (13-cv-01612,

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<sup>3</sup> Construed by the court to be a Motion for Reconsideration of its habeas ruling.

ECF No. 35 at 5.) Said Motion was denied on January 19, 2015. (13-cv-01612, ECF No. 38.)

On August 22, 2019, Defendant filed a second Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C. § 2255, in which he sought relief pursuant to the Supreme Court's ruling in Johnson v. United States, 576 U.S. 591 (2015). (19-cv-17274, ECF No. 1.) Said Motion was denied on February 13, 2020 and a Certificate of Appealability was not issued. (ECF No. 10.)

On December 21, 2020, Defendant filed his first Motion for Reduction of Sentence Under First Step Act, 18 U.S.C. § 3582(c)(1)(A), based upon his health conditions in relation to the Covid-19 Pandemic. (ECF No. 28.) Said Motion was denied and Defendant filed a Notice of Appeal. (ECF Nos. 36, 37.) On September 12, 2022, the Third Circuit Court of Appeals affirmed this Court's decision. (ECF No. 39.)

On July 31, 2023, Defendant filed his third Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C. § 2255, alleging he is "actually innocent of being a career offender." (23-cv-04081, ECF No. 1 at 4.) Said Motion is currently pending before the court. Three days later, Defendant filed the instant Motion for Compassionate Release after first exhausting his administrative remedies. (ECF Nos. 41, 41-8 at 1-4.)

## DISCUSSION

### I. Standard of Review

"The First Step Act empowers criminal defendants to request compassionate release for 'extraordinary and compelling reasons.'" United States v. Raia, 954 F.3d 594, 595 (3d Cir. 2020) (quoting 18 U.S.C. § 3582(c)(1)(A)(i)). Prior to bringing a motion for reduced sentence before the sentencing court, defendants must first ask the Director of the Bureau of Prisons to motion the court on his or her behalf and if no such motion is made after thirty days have passed, the defendant may then motion the court on their own. 18 U.S.C. § 3582(c)(1)(A).

"Thus, under the First Step Act, a defendant seeking a reduction in his term of imprisonment bears the burden of satisfying both that he has (1) exhausted remedies before seeking judicial review, and (2) that compelling and extraordinary reasons exist to justify compassionate release." United States v. Sellers, Crim. No. 10-434, 2020 U.S. Dist. LEXIS 72991, at \*2 (D.N.J. Apr. 24, 2020) (citing 18 U.S.C. § 3582(c)(1)(A)); see also Raia, 954 F.3d at 595. At the second step, a court may reduce an inmate's sentence pursuant to 18 U.S.C. § 3852(c)(1)(A) if, after finding extraordinary and compelling reasons warrant a reduction, such a reduction would be consistent with applicable policy statements issued by the Sentencing Commission, and that the applicable sentencing

factors under § 3553(a) warrant a reduction. United States v. Pabon, 458 F. Supp. 3d 296, 300 (E.D. Pa. 2020); see also United States v. Castillo, Criminal Action No. 12-cr-230-3, 2024 U.S. Dist. LEXIS 20260, at \*6-7 (E.D. Pa. Feb. 5, 2024) ("Only if a defendant's circumstances qualify as 'extraordinary and compelling' will the court look to Section 3553(a) factors to determine whether, at the court's discretion, a sentence reduction is warranted.") (citing 18 U.S.C. § 3582(c)(1)(A)).

In April 2023, the Sentencing Commission introduced changes to the requirements and definitions contained in § 3582, as well as the Guidelines' Policy Statements regarding matters to be considered in evaluating motions of this kind:

Under Amendment 814, effective November 1, 2023, a defendant is now authorized to file a motion under 18 U.S.C. § 3582(c)(1)(A). Amendment 814 also expands and modifies the categories of "extraordinary and compelling reasons" that may warrant a sentence reduction under 18 U.S.C. § 3582(c)(1)(A), as follows: (1) additional "Medical Circumstances" subcategories; (2) modified Family Circumstances category; (3) new "Victim of Abuse" category; (4) modified "Other Reasons" category; and (5) new "Unusually Long Sentence" category. U.S.S.G. § 1B1.13(b) (Nov. 1, 2023).

United States v. Castillo, Criminal Action No. 12-cr-230-3, 2024 U.S. Dist. LEXIS 20260, at \*6-7 (E.D. Pa. Feb. 5, 2024).

Notwithstanding these most recent changes, "District courts 'wield considerable discretion in compassionate-release cases.'" United States v. Handy, No. 22-2837, 2023 U.S. App. LEXIS 33054,

at \*3 (3d Cir. Dec. 14, 2023) (quoting United States v. Andrews, 12 F.4th 255, 258 (3d Cir. 2021)); see also United States v. Kramer, No. 23-1246, 2024 U.S. App. LEXIS 1870, at \*6-7 (3d Cir. 2024) (“Courts have ‘considerable discretion in compassionate-release cases.’”) (quoting Andrews, 12 F.4th at 258).

## **II. Analysis**

As a preliminary matter, this Court notes that on January 4, 2024, the Government was ordered to file supplemental briefing regarding Defendant’s claims in relation to the Sentencing Commission’s newly implemented Policy Statements regarding 18 U.S.C. § 3852. On January 26, 2024, the Government submitted a Letter Brief in which it voiced its objection to the Sentencing Commission’s promulgation of § 1B1.13(b)(6) regarding “unusually long” sentences and § 1B1.13(c) regarding consideration of “a change in the law (including an amendment to the Guidelines Manual that has not been made retroactive)” when “a defendant otherwise establishes that extraordinary and compelling reasons warrant a sentence reduction[.]” (ECF No. 49 at 2-8) (citing U.S. SENT’G GUIDELINES MANUAL § 1B1.13(c), p.s. (Nov. 2023)). In doing so, the Government urges this Court to not grant relief to Defendant on the bases of these two provisions. (ECF No. 49 at 5-8.) For the reasons set forth below in Sections II(B)-(C), the Court declines to address the

legal challenges raised to 1B1.13(b) (6) and § 1B1.13(c) because those issues - as they pertain to this particular Defendant - are moot.

#### **A. Medical Conditions and Treatment**

Defendant first contends he has not received proper medical treatment since being transferred to FCI Fort Dix in October 2021 and his age (66 years old at the time of briefing) makes it difficult for him to provide self-care. (ECF No. 41 at 4-6.)<sup>4</sup>

The most recent Policy Statements pertaining to consideration of a defendant's medical situation while incarcerated provide as follows:

(1) Medical Circumstances of the Defendant.-

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<sup>4</sup> In his January 11, 2023 Request for Compassionate Release to the Warden at FCI Fort Dix, Defendant cites a "Prison Outbreak of COVID-19" as the primary basis for his request, claiming in part "My pre-existing medical conditions ([o]besity, [d]iabetes, [h]ypertension, gout, turn [sic] rotator, kidney failure, hyperlipidemia, joint pain) increase my risk of severe injury or death if infected again with the COVID-19 virus." (ECF No. 41-8 at 1.) He further claims "This action is necessary because of the risk that I face from COVID-19 due to my [m]edical conditions, age, and the [d]eprived [sic] [c]onditions I am facing, and to mitigate the risk of possible re-infection of COVID-19." (ECF No. 41-8 at 1.)

In his instant motion, Defendant does not cite Covid-19 as a basis for relief but instead, raises issues not presented to the Warden. Nevertheless, this Court shall construe his motion broadly on the issue of exhaustion as it must do when assessing pro se matters. See United States v. Jones, Criminal Action No. 07-143, 2023 U.S. Dist. LEXIS 67497, at \*8-9 (D.N.J. April 18, 2023) ("[T]here is authority in this circuit suggesting courts should interpret issues broadly for § 3582 exhaustion purposes rather than a strict application of waiver principles.").



B. The defendant is—

- (i) suffering from a serious physical or medical condition,
- (ii) suffering from a serious functional or cognitive impairment, or
- (iii) experiencing deteriorating physical or mental health (iii) because of the aging process,
- (iv) that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he or she is not expected to recover.

C. The defendant is suffering from a medical condition that requires long-term or specialized medical care that is not being provided and without which the defendant is at risk of serious deterioration in health or death.

U.S. SENT'G GUIDELINES MANUAL § 1B1.13(b) (1) (B) (i-iv)-(C), p.s. (Nov. 2023).

Additionally, a defendant's age may be considered by the court when other criteria are met:

(2) Age of the Defendant.—

The defendant (A) is at least 65 years old; (B) is experiencing a serious deterioration in physical or mental health because of the aging process; and (C) has served at least 10 years or 75 percent of his or her term of imprisonment, whichever is less.

U.S. SENT'G GUIDELINES MANUAL § 1B1.13(b) (2), p.s. (Nov. 2023).

As both Defendant and the Government point out, on June 16, 2022, this Court previously addressed the issue of "[Defendant's] medical condition of Type II diabetes, hypertension, hyperlipidemia, obesity, gout with disabling joint

pain, a torn rotator cuff in his right shoulder, and moderate asthma along with his age, 65 years of age” and determined they did not “constitute ‘extraordinary and compelling reasons’ justifying his release[.]” (ECF No. 35 at 4-6.) Defendant now raises many of these same conditions as a basis for relief, and adds that in 2021, he suffered renal kidney failure after the medical staff at FCI Danberry placed him on the diabetes drug Ozempic. (ECF No. 41 at 4.) However, even under the recently expanded parameters for bringing such a claim, Defendant’s claim fails.

Defendant was taken off Ozempic on August 30, 2021, at which time the medical professional treating him specifically noted “medication changes that have occurred since changes in renal function include the addition of rosuvastatin and semaglutide [Ozempic]. These medications are not likely to cause renal problems but it would be best to hold the medications until the underlying cause of decreased renal function is detected.” (ECF No. 41-2 at 1) (emphasis added). Notwithstanding the fact Defendant could have raised his kidney function issue in his previous Motion for Compassionate Release but failed to do so, Defendant’s current claim falls short of establishing that his health issues constitute an “extraordinary or compelling” reason for a reduction in sentence.

This is so for several reasons. First, other than his personal account of events and conclusory statements (ECF No. 41-1), Defendant does not provide the court with any supporting information to show he is suffering from a "serious physical or medical condition"; a "serious functional [ ] impairment"; or, "deteriorating physical [ ] health because of the aging process, that substantially diminishes [his] ability to provide self-care within the environment of a correctional facility and from which he [ ] is not expected to recover." U.S. SENT'G GUIDELINES MANUAL § 1B1.13(b) (1) (B) (i-iv), p.s. (Nov. 2023) (emphasis added). Although Defendant alleges he is in "constant pain," he does not provide documentation to show the alleged pain is "serious" or constitutes a "functional impairment," or that he is unable to care for himself despite the pain.<sup>5</sup> (ECF No. 41 at 6.)<sup>6</sup>

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<sup>5</sup> Defendant also contends various items and privileges were taken away from him, such as his beard trimmer, a shoe orthotic, compression garments, 1<sup>st</sup> Floor Pass, etc. (ECF No. 41 at 5; 41-6.) While these deprivations may make his incarceration more challenging in some ways, he has failed to show how the absence of these items make his situation more extraordinary and compelling.

<sup>6</sup> Although Defendant says he has "kidney failure" and Ozempic caused his "kidneys to crash[,] " medical records do not bear this out. (ECF No. 41 at 2, 4; 41-1 ¶ 4; 41-2 at 1.) Instead, records show Defendant suffers from "Chronic kidney disease, stage 3a[.]" (ECF No. 41-2 at 8.) Defendant has not provided any information to indicate he requires dialysis that is not being provided, or that the prison is not capable of treating chronic kidney disease at that stage.

In addition, Defendant is not suffering from a terminal illness, as defined by the Sentencing Commission. Nor is Defendant's age a sufficient basis - in and of itself - upon which to grant relief. Although Defendant is in his late sixties and has served at least 10 years of his term of imprisonment, he has not established "a serious deterioration in physical [] health because of the aging process[.]" U.S. SENT'G GUIDELINES MANUAL § 1B1.13(b)(1)(B)(iii), p.s. (Nov. 2023); see also United States v. Walters, Criminal Action No. 5:13-062, 2024 U.S. Dist. LEXIS 947, at \*13-14 (E.D. KY Jan 3, 2024) ("[Defendant's] deteriorating health would seem to be caused, in part, by the natural aging process which poses challenges to BOP officials charged with managing his medical care. However, he fails to identify any cognizable rationale to justify a sentence reduction on the premise that incarceration precludes him from receiving adequate treatment. Without a diagnosed terminal or end-stage illness, a long-term condition requiring care that BOP cannot provide, or a credible claim that BOP officials disregarded his medical needs on a negligent level . . . no extraordinary and compelling circumstance merit[] granting the relief [Defendant] seeks.").

In this case, records provided by Defendant clearly show his medical issues are being addressed by the prison. (ECF No. 41-2.) Defendant is being prescribed insulin for his diabetes

(ECF No. 41-2 at 9) and has provided this Court with no documentation to show anything - particularly his kidney function - has worsened since he last came before the court with his prior Motion for Compassionate Release. Moreover, to the extent Defendant based his compassionate release request to the BOP on COVID-19, the risk of an immunocompromised individual contracting COVID-19 has dramatically decreased since the court last ruled on the issue. See Inmate COVID-19 Data, Bureau of Prisons, [https://www.bop.gov/about/statistics/statistics\\_inmate\\_covid19.jsp#lastestCovidData](https://www.bop.gov/about/statistics/statistics_inmate_covid19.jsp#lastestCovidData) (last visited Feb. 26, 2024) (one active COVID-19 case out of an inmate population of 3,781).

In view of the foregoing, Defendant has failed to present this Court with documented "extraordinary and compelling" medical reasons that would warrant consideration of a reduction in sentence. See United States v. Mulder, Case No. 19-CR-0157-001, 2023 U.S. Dist. LEXIS 221525, at \*12-13 (N.D. Okla. Dec. 13, 2023) (applying Section 1B1.13, effective November 1, 2023, court concluded "although Defendant argues that his medical conditions are deteriorating, that the BOP is negligent in his care and incapable of properly treating his many physical disorders, and that he faces imminent death if he remains confined, BOP medical records paint a different picture.").

#### **B. Career Offender Status**

Defendant next claims the trial court erroneously

determined he was a career offender when imposing sentence.

(ECF No. 41 at 8.)

This Court remains cognizant of the newly enacted Policy Statements that now provide potential relief for those serving an “unusually long” sentence. U.S. SENT’G GUIDELINES MANUAL § 1B1.13(b)(6), p.s. (Nov. 2023). However, Defendant does not provide the court with any information to suggest “a change in the law (other than an amendment to the Guidelines Manual that has not been made retroactive)” that “would produce a gross disparity between the sentence being served and the sentence likely to be imposed at the time the motion is filed[.]” Id.<sup>7</sup>

Instead, Defendant reasserts the same argument he has made via previous motions brought pursuant to § 2255 and a motion brought pursuant to Fed.R.Civ.P. 59(e). (13-cv-01612,

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<sup>7</sup> In fact, Defendant correctly acknowledges that this new provision does not apply to him:

This case admittedly does not fall within the unusually long sentence section of the proposed guideline, because the underlying statute or guideline applicable to the Defendant has not changed, such that a Defended [sic] convicted now of the same crime would face a shorter sentence.

(ECF No. 47 at 6.) Defendant then goes on to discuss the fact that he has served at least ten years of his sentence. (ECF No 47 at 6.) This is irrelevant for purposes of § 1B1.13(b)(6), as the requirements for consideration of this provision are not mutually exclusive.

ECF Nos. 1, 12, 35; 19-cv-17274, ECF No. 1; 23-cv-04081, ECF No. 1.) Namely, Defendant is claiming - as he has before - that the sentencing court "used inaccurate information" regarding his career offender status when imposing sentence. (ECF No. 41 at 10.) To that end, he asks the court to correct the error upon which his sentencing enhancement was allegedly based. (ECF No. 41 at 11.)

However, a motion for compassionate release is not the proper mechanism for the relief Defendant seeks:

Several panels for the Third Circuit have recently held that claims of sentencing errors (or erroneous convictions) can only be raised in a § 2255 motion for habeas relief. As federal appellate courts have unanimously concluded, the statutory avenue for seeking compassionate release on the basis of "extraordinary and compelling" reasons cannot be read "to provide an end run around habeas." Justice Easterbrook recently summarized this principle as follows:

In other words, the sort of "extraordinary and compelling" circumstance that § 3582(c)(1) addresses is some new fact about an inmate's health or family status, or an equivalent post-conviction development, not a purely legal contention for which statutes specify other avenues of relief-avenues with distinct requirements, such as the time limits in § 2255(f) or the need for a declaration by the Sentencing Commission that a revision to a Guideline applies retroactively.

Other district courts in this circuit have applied this well-reasoned rule, including in rejecting challenges to offense level enhancements concerning firearms and drug trafficking.

United States v. Malloy, Criminal No. 07-689-5, 2023 U.S. Dist.

LEXIS 191306, at \*18-19 (E.D. Pa. Oct. 25, 2023); see also In re Thomas, No. 21-1154, 2024 U.S. App. LEXIS 2336, at \*3 (7th Cir. Feb. 2, 2024) ("Properly understood, a motion for a sentence reduction under § 3582(c)(1) or (c)(2) does not attack the sentence at all. It accepts the legal validity of the sentence imposed but asks for modification to account for changed circumstances."); United States v. Wilson, No. 22-2606, 2022 U.S. App. LEXIS 30019, at \*4 n.1 (3d Cir. Oct. 27, 2022) ("§ 3582(c)(1)(A) provides a mechanism to seek a reduction in the term of a sentence, not to challenge its validity."); United States v. Kamal Zaki Qazah, CASE NO. 3:11-CR-00373, 2024 U.S. Dist. LEXIS 24391, at \*11 (W.D.N.C. Feb. 12, 2024) ("Compassionate release cannot be used to make a collateral attack on the lawfulness of a previously imposed sentence. The proper method to challenge the lawfulness of a sentence is under 28 U.S.C. § 2255.") (internal citation omitted); United States v. Miller, Case No. 7:09-CR-00001-M-2, 2024 U.S. Dist. LEXIS 21710, at \*7 (E.D.N.C. Feb. 7, 2024) ("§ 3582(c)(1)(A) cannot be used as a tool for attacking a sentence or conviction; rather, § 2255 is the exclusive means by which defendants may launch such attack.") (citation omitted).

Apparently aware of the fact that § 3582 was never intended to provide litigants with another bite of the proverbial apple when relief may be obtained elsewhere, Defendant currently has



yet another § 2255 motion pending before the court, in which he raises the same issue. (23-cv-04081, ECF No. 1 at 4.)<sup>8</sup>

Accordingly, his motion for compassionate release on the basis of an alleged error by the sentencing court will be denied.

### **C. "Other Reasons"**

Upon invitation by the court to supplement his filings in light of the Sentencing Commission's new Policy Statements regarding compassionate release motions, Defendant submitted a "Reply," in which he raised the issue of "other reasons" in support of his initially filed motion. (ECF No. 47 at 5-7.)

In the newly enacted Policy Statement to USSG § 1B1.13, a court may consider "any other circumstances or combination of circumstances that, when considered by themselves or together with any of the reasons described in paragraphs (1) through (4) are similar in gravity to those described in paragraphs (1) through (4)." U.S. SENT'G GUIDELINES MANUAL § 1B1.13(b)(5), p.s. (Nov. 2023).

As discussed in depth above, Defendant seeks compassionate

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<sup>8</sup> The court notes that after receiving the Government's Opposition to the instant compassionate release motion, Defendant attempted to change the theory of his claim by filing a Reply in which he states "McAdams has showed his sentence is unjust, how the Government engineered a career offender enhancement imposed on him. Thus, while his conviction was legal, it was overly harsh and unjust." (ECF No. 47 at 5.) However, he goes on to argue he was "erroneously classified as a career offender" which, again, is a § 2255 issue. (ECF No. 47 at 5.)

release on the bases of his medical situation and the trial court's allegedly erroneous application of the career offender enhancement at the time of sentencing. In advancing an "other reasons" argument, Defendant asserts the Government "manipulat[ed] the career offender guideline . . . then continuously den[ied] relief in prior filings[.]" (ECF No. 47 at 6.) The court finds that neither on its own nor in combination with the foregoing, does this constitute an extraordinary or compelling reason for a reduction in sentence.

#### **D. Continued Analysis**

Defendant's failure to establish an extraordinary and compelling reason for a reduction in sentence renders any need to assess the § 3553 factors or Sentencing Commission Policy Statements<sup>9</sup> moot. See United States v. Garcia, Crim. No.: 21-884, 2023 U.S. Dist. LEXIS 186930, at \*15 (D.N.J. Oct. 18, 2023) (because the defendant failed to establish "extraordinary and compelling reasons for compassionate release[,]" . . . the Court need not consider whether early release would comport with the factors set forth in 18 U.S.C. §§ 3142(g) and 3553(a)."); United States v. Pray, Criminal Action No. 14-55-1, 2022 U.S. Dist. LEXIS 124497, at \* 2 (E.D. Pa. July 14, 2022) (inmate's sentence may only be reduced if all three criteria are met: (1) a finding

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<sup>9</sup> Beyond that provided above in Section II(A)-(C).

of extraordinary and compelling reasons; (2) § 3355 factors warrant reduction; and (3) a reduction "is consistent with applicable policy statements issued by the Sentencing Commission.").

**CONCLUSION**

For the reasons set forth above, the court will deny Defendant's Motion for Compassionate Release (ECF No. 41).

An appropriate Order will accompany this Opinion.

Dated: 2/29/24  
Camden, New Jersey

/s/ Noel L. Hillman  
Noel L. Hillman, U.S.D.J.